

## **REMARKS**

Applicants sincerely thank the Examiner for the interview on June 5, 2007. The comments and suggestions were very helpful.

### **I. Status of the Claims**

This submission is in response to the Final Official Action dated March 8, 2007 and the Advisory Action dated May 22, 2007. Claims 25-33, 35-38, and 50-55 are currently pending in the application. Claims 25-33, 35, and 50-55 are rejected; claim 36 is objected to, and claims 37 and 38 are withdrawn from consideration. Claims 37 and 38 are drawn to nonelected species. Applicants understand that claims 37 and 38 will be examined upon the allowance of a generic claims. Claims 25, 53, and 54 are amended herewith. Support for the amendment is found in the specification in Example 6, page 37.

Reconsideration of the above-identified application, in view of the following remarks, is respectfully requested. Each of the Examiner's rejections is discussed below.

### **II. Rejections under 35 U.S.C. § 102(b)**

The Examiner has maintained his rejection of claims 25-33, 35, and 50-55 as anticipated by Sano et al. (GB 2254340). The Examiner states that

there is no requirement claimed that precludes Sano's polymer/metal bonded to a substrate;

there is no time constraint claimed for non-elution that would preclude Sano; and

there is no data to show elution of the Sano article, at any time after it is prepared, regardless of inventors declaration of presumption to the contrary.

Applicants respectfully traverse this rejection. Claims 25, 53, and 54 are amended herewith and now recite that the antimicrobial coating does not release biocidal amounts of elutables into the surrounding ambient liquid for at least 5 days.

Example 6 provides data for the non-leachability of the coatings recited in the pending claims. The coatings are treated in stringent conditions to stimulate aging of approximately one year at

ambient temperature, and were, in fact, treated for at least five days. After five days of treatment, the coatings as recited in the present invention showed no biocidal activity.

The coating as described by Sano WILL release biocidal amounts of elutables into the surrounding ambient liquid within this time frame (*See* the Declaration of Dr. Sam Sawan submitted on May 8, 2007). The Sano composition, comprising a thick silver film, is different. Under the same treatment, the Sano composition would oxidize and release biocidal amounts of elutables into the surrounding ambient liquid within 5 days. Therefore, Sano does not make claims 25-33, 35, and 50-55 obvious. No comparative data is necessary since a person of ordinary skill in the art would understand that a thick silver film will oxidize under these conditions.

Accordingly, reconsideration and withdrawal of the present rejection under 35 U.S.C. § 102 is respectfully requested.

### **III. Double-Patenting**

Claims 25-32 and 50-55 have been rejected by the Examiner under the judicially created doctrine of obviousness-type double-patenting as being allegedly unpatentable over various claims in commonly-owned U.S. Patent 5,849,311.

In response, a terminal disclaimer is submitted herewith.

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Therefore, in view of the above remarks, it is earnestly requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining that the Examiner believes could be resolved through either a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Dated: June 8, 2007

Respectfully submitted,

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